Words, Even From Cabinet Secretaries,
Cannot Repeal a Law

The War Powers Resolution is constitutionally grounded — not constitutionally suspect

Secretary of State Marco Rubio told reporters at a White House briefing on Tuesday that the War Powers Act is "unconstitutional, 100 percent," and that the Trump administration is complying with "elements" of it only to maintain good relations with Congress. Made as the U.S.-Israeli war on Iran sailed past its 60-day deadline, it was the most categorical executive-branch repudiation of the 1973 statute on record. It was also legally meaningless.

In four months, the country has heard the War Powers Resolution called "dubious" by the Speaker, "fundamentally a fake and unconstitutional law" by the Vice President, a clock that "pauses or stops in a ceasefire" by the Defense Secretary, and now "100 percent unconstitutional" by the Secretary of State. Between those last two, the President himself wrote to congressional leadership on May 1 to declare that hostilities had "terminated" – a one-paragraph attempt to end the WPR's clock by executive *fiat*, with the U.S. naval blockade of the Strait of Hormuz still in place.

Three days later, the Pentagon launched Operation Project Freedom – destroyers, more than 100 aircraft and some 15,000 service members deployed to escort commercial vessels through the strait. Iran answered with cruise missiles, drones and small-boat sorties. The operation was paused 24 hours later, blockade still in force. Hostilities had not terminated; they were being relabeled.

Words from Cabinet officers cannot change the operative status of a federal statute. The mechanisms for doing so are, by constitutional design, exactly four: repeal by Congress; invalidation by an Article III court on a properly developed record; amendment under Article V; or sunset by the statute's own terms. None has been engaged. No bill of repeal is pending. No court has invalidated the WPR's notification, 60-day or 30-day provisions; courts have declined to reach the question, a posture that *preserves* the statute's force rather than nullifying it. As a matter of law, the War Powers Resolution remains in full operating force.

Rubio's own framing concedes as much. If the statute were truly void, notification would not be required even as a courtesy. Comity, in inter-branch practice, runs to constitutional duties; one does not extend it to a dead letter. The May 1 termination letter likewise uses the WPR's own statutory language about whether "hostilities" have ended. The

administration is relying on the statute and denouncing it as void at the same time. Both cannot be true.

The constitutional case is not close. Article I, Section 8, Clause 11 gives Congress the exclusive authority to declare war. The Necessary and Proper Clause empowers Congress to legislate in furtherance of that power. The WPR's 48-hour notification, 60-day clock and privileged concurrent resolution mechanism are precisely the structural guardrails that clause was written to authorize. As the National Constitution Center summarizes the consensus, presidents cannot, on their own, take the country to war.

Bipartisan voices have said so plainly. Sen. Tim Kaine (D-Va.) has argued the President "must come to Congress before using military force unless absolutely necessary." Sen. Rand Paul (R-Ky.) has been blunter: "Only Congress can declare war. That's not my opinion. That's Article I of the Constitution." On April 30, Sen. Susan Collins (R-Maine) crossed the aisle for the first time, stating the deadline "is not a suggestion; it is a requirement." Sen. Lisa Murkowski (R-Alaska) has announced she will introduce a formal authorization when the Senate returns May 11.

In Conclusion

What Speaker Mike Johnson, Vice President JD Vance and Secretary Rubio are advocating is not a constitutional interpretation. It is a constitutional transformation – one that would convert the Founders' most carefully guarded restraint on executive war-making into a dead letter, by talking about it as though it already were one. It is not. The 60-day clock has run. The blockade is still in place. Project Freedom is paused, not terminated. The statute remains the law until repealed or invalidated, and it has been neither. Now would be a useful moment for the country's lawyers, lawmakers and editorial pages to say so – calmly, clearly, and on the record.

Epilogue

There is no shortage of fine words in Washington. And yet here we are, six Senate votes deep on the Iran War Powers Resolution, all defeated along nearly identical party lines, with the deadline crossed and a Cabinet officer telling reporters the law is "100 percent unconstitutional." This is not primarily a failure of knowledge. It is a failure of attention – and of nerve. The constitutional grounding of the WPR is not hidden. It is printed in the same document every member of Congress swore an oath to support and defend. The harder question is whether we are willing to act on what we already know.

Mr. Angel Gomez is a researcher specializing in the societal impact of government policies. He has a background in psychoanalytical anthropology and general sciences.